

1 Tyler Graber
NORTHWEST JUSTICE PROJECT
2 38 E. Main, Suite 207
Walla Walla, WA 99362
3 509-525-9760; fax 509-525-9895

4 John Wolff
NORTHWEST JUSTICE PROJECT
5 1702 W. Broadway
Spokane, WA 99201
6 (509) 381-2348; fax 206-299-3185

7
8 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

9 DEBORAH HART,

2:20-CV-00462-TOR

10 Plaintiff,

CONSENT DECREE AND
ORDER OF DISMISSAL

11 vs.

12 HOUSING AUTHORITY OF ASOTIN
COUNTY and SUSAN CLARK,
13 Executive Director of Housing Authority
of Asotin County, in her official capacity,

14 Defendants.
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17 The Parties agree that this Court has jurisdiction over the subject matter of
18 the claims alleged, and that by their signatures below they consent to entry of this
19 Consent Decree. The Parties agree to waive any right to appeal from the entry of
20 this Consent Decree.

21 This Action concerns allegations by Plaintiff Deborah Hart related to

1 grievance hearings administered by the Housing Authority of Asotin County
2 (“HAAC”) and its Executive Director Susan Clark under 42 U.S.C. § 1437d(k) and
3 24 C.F.R. § 966.56.

4 On December 12, 2020, Ms. Hart commenced this action in the Eastern
5 District of Washington. In lieu of further litigation and upon stipulation of the
6 parties, and with the Court fully advised:

7 **The Court hereby ORDERS, ADJUDGES, AND DECREES:**

8 1. The following provisions of this Consent Decree shall apply to the
9 HAAC and its agent, employees, representatives, successors, and subsidiaries
10 (hereinafter, collectively, “Defendants”).

11 2. Defendants shall develop and implement a suitable training
12 curriculum for the HAAC’s Hearing Officers which provides the Hearing Officers
13 with the necessary knowledge, skill, and competence to conduct grievance
14 hearings in compliance with applicable law, including but not limited to 42 U.S.C.
15 1437d(k), 24 C.F.R. § 966.56, and this Order. The training must be developed and
16 delivered by an attorney-advisor experienced in the public housing grievance
17 procedures contained in applicable law, including but not limited to 42 U.S.C.
18 1437d(k) and 24 C.F.R. § 966.5 and must be approved by Plaintiff’s attorneys. The
19 training curriculum shall include provisions regarding continuing education or
20 periodic updates to reflect changes in the law, as necessary.

1 3. Defendants shall require all Hearing Officers to be adequately trained
2 before they may preside over a grievance hearing. Adequately trained means the
3 Hearing Officer has completed the initial training curriculum, as well as any
4 continuing education or trainings on periodic updates as are available. Proof that
5 the Hearing Officer is adequately trained to preside over the grievance hearing
6 shall be entered into the record of every grievance hearing. The proof shall consist
7 of a certificate of training signed and dated by the attorney-advisor. For a period of
8 18 months following the entry to this consent decree, the Defendants will further
9 provide Plaintiff's attorneys with a copy of any certificate of training issued to
10 prospective Hearing Officers within 30 days after their completion of the training
11 curriculum.

12 4. Defendants shall require an attorney-advisor experienced in the public
13 housing grievance procedures contained in applicable law, including but not
14 limited to 42 U.S.C. 1437d(k) and 24 C.F.R. § 966.56 to attend all grievance
15 hearings to ensure Hearing Officers and Hearing Panels comply with the law and
16 this Consent Decree. The attorney-advisor may attend the grievance hearing either
17 in person, telephonically, or by video.

18 5. Defendants shall require all communications between the Hearing
19 Officer, Hearing Panel, and the HAAC concerning a notice of adverse action
20 and/or grievance hearing to be sufficiently documented. Sufficient documentation
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1 means a written document memorializing the communication. Documentation of
2 all communications must be provided to the tenant up to and until the grievance
3 process concludes.

4 6. Defendants shall require the HAAC to have the burden to prove that
5 the adverse action was justified.

6 7. Defendants shall require the Hearing Officer and Hearing Panel to
7 make decisions based only on the evidence provided in the grievance hearing.

8 8. Defendants shall require the Hearing Officer and Hearing Panel to
9 consider only whether the HAAC has proven the facts stated in the notice of the
10 adverse action and whether the facts justified the adverse action. The Hearing
11 Officer and Hearing Panel may not consider issues outside of those contained in
12 the notice of the adverse action.

13 9. Defendants shall require the decision of the Hearing Officer and
14 Hearing Panel to be in writing. The written Grievance Hearing Decision shall
15 adequately describe the testimony and evidence presented, a summary of each
16 party's position, and the conclusions based on the evidence and legal arguments
17 presented. Credibility determinations must be specific and made in writing.

18 10. Defendants shall require all grievance hearings to remain private
19 unless the tenant/complainant requests otherwise.
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1 11. Within 60 days of the entry of this Order, Defendants shall adopt and
2 incorporate the provisions of this Order into the HAAC's grievance policies and
3 procedures manual.

4 12. For a period of 18 months following the entry of this order,
5 Defendants shall provide Plaintiff's attorneys with all written Grievance Hearing
6 Decisions within 30 days of the issuance of the Grievance Hearing Decision made
7 during this Order's operative period to ensure compliance with this Order.
8 Defendants may redact the Grievance Hearing Decisions as necessary to protect
9 the privacy of the tenant/complainant.

10 13. The terms of this Order shall be enforceable by any person subjected
11 to a violation of this Order by the Defendants. Prior to seeking enforcement by the
12 Court, any person claiming a violation shall provide the Defendants with 30-days'
13 notice and an opportunity to cure the violation.

14 14. In the event enforcement of this Order is necessary, whether by
15 motion or demand to the Defendants, any person may seek extension of this Order
16 by motion to the Court upon such terms as may be necessary or appropriate to
17 enforce compliance with this Order.

18 15. Should any person be required to enforce the provisions of this Order,
19 the Court may award such person their reasonable attorney's costs and fees if the
20 Court finds that a violation of this Consent Decree or applicable law occurred.

1 16. This Consent Decree shall only be effective so long as the terms and
2 conditions are supported by applicable law.

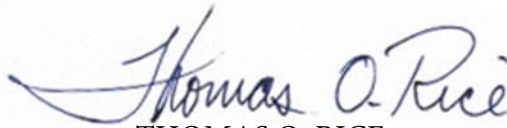
3 17. This Consent Decree may be executed in two or more counterparts,
4 each of which shall constitute an original instrument and all of which together shall
5 constitute one, and the same, settlement. The person signing this Consent Decree
6 represents that they have the authority to enter this on behalf of the respective
7 parties they represent and that the Consent Decree shall be binding upon the parties
8 hereto.

9 18. The Parties will agree that no appeal shall follow from the issuance of
10 this Consent Decree and Order of Dismissal.

11 19. It is hereby ORDERED, that this action is hereby dismissed with
12 prejudice. The Court will retain jurisdiction to effectuate its judgment pursuant to
13 28 U.S.C. § 2202, or to otherwise enforce, modify, or terminate this Order.

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16 SO ORDERED, this 10th day of December 2021.




THOMAS O. RICE
United States District Judge

1 **Approved for entry; presented by:**

**Approved for Entry; Notice
of Presentation Waived**

2 NORTHWEST JUSTICE PROJECT

WINSTON & CASHATT

3 /s/ 

/s/ 

4 Tyler Graber, WSBA #46780
5 John Wolff, WSBA #56829
6 Attorneys for Plaintiff

7 Kammi Mencke Smith, WSBA #34911
8 Attorney for Defendants
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